

UNCLASSIFIED

05 - 307

FOR OFFICIAL USE ONLY

MEMORANDUM OF UNDERSTANDING
BETWEEN THE
DEPARTMENT OF DEFENSE OF THE UNITED STATES OF AMERICA
AND THE
DEPARTMENT OF DEFENCE OF AUSTRALIA
CONCERNING
THE MUTUAL EXCHANGE OF MILITARY SATELLITE
COMMUNICATIONS
SERVICES AND SUPPORT

FOR OFFICIAL USE ONLY

UNCLASSIFIED

TABLE OF CONTENTS

INTRODUCTION.....	3
SECTION I.....	5
DEFINITIONS	
SECTION II.....	7
OBJECTIVES	
SECTION III.....	8
SCOPE OF MOU	
SECTION IV.....	9
MANAGEMENT (ORGANISATION AND RESPONSIBILITY)	
SECTION V.....	11
CO-LOCATED EQUIPMENT	
SECTION VI.....	12
DISCLOSURE AND USE OF INFORMATION	
SECTION VII.....	13
SECURITY	
SECTION VIII.....	15
CONTROLLED UNCLASSIFIED INFORMATION	
SECTION IX.....	16
CUSTOM DUTIES, TAXES, AND SIMILAR CHARGES	
SECTION X.....	17
VISITS TO ESTABLISHMENTS	
SECTION XI.....	18
IMPLEMENTATION	
SECTION XII.....	19
LIABILITY AND CLAIMS	
SECTION XIII.....	20
SETTLEMENT OF DISPUTES	
SECTION XIV.....	21
ENTRY INTO EFFECT, DURATION, AND TERMINATION	
ANNEX A: SAMPLE COMMUNICATIONS ARRANGEMENT.....	23

INTRODUCTION

The Department of Defense of the United States of America (DOD US) and the Department of Defence of Australia (DOD AS), hereinafter referred to as the "Participants":

Recognising the Exchange of Notes Constituting an Agreement between the Government of the United States of America and the Government of Australia Concerning Certain Mutual Defense Commitments done at Sydney on 1 December 1995 (Chapeau Agreement) will apply to this Memorandum of Understanding (MOU);

Recognising the Agreement between the Government of Australia and the Government of the United States of America concerning Security Measures for the Protection of Classified Information (GSOIA) that entered into force on 7 November 2002; will apply to this Memorandum of Understanding (MOU);

Having a common interest in defence;

Recognising the benefits to be obtained from standardisation, rationalisation, and interoperability of communication systems;

Recognising the need for the orderly use of space for communications purposes;

Recognising that the satisfaction of the foregoing requirements may be sought through:

- a. shared use of each other's operational satellites;
- b. use of each other's spare satellites;
- c. use of each other's satellite communications systems by means of terrestrial interconnection;
- d. exchange of managerial and/or operational information that may enhance the overall effectiveness of each other's satellite communications (SATCOM) systems;

Recognising the Participants each have a desire to achieve interoperable satellite communications links over certain US wideband and narrowband satellites between certain of each other's specified earth terminals and associated satellite communications facilities;

Recognising the Participants each have a desire to achieve interoperable satellite communications links over Australian wideband and narrowband satellites between certain of each other's specified earth terminals and associated satellite communications facilities;

Recognising the Participants have a need for a contingency and interoperability capability to use each other's satellites, satellite capacity, satellite ground terminals and interconnection facilities in support of joint and combined operations;

UNCLASSIFIED

Recognising the benefits that can be obtained from an exchange of communications services and capacity including SATCOM and other communications services.

Recognising the benefits that can be achieved in developing interoperable SATCOM broadcast services.

Have reached the following understandings:

SECTION I: DEFINITIONS

The Participants have jointly decided upon the following definitions for terms used in this Memorandum of Understanding (MOU):

Classified Information

Information that requires protection in the interests of national security and is so designated by the application of a security classification. This information may be in oral, visual, electronic or documentary form, or in the form of material including, equipment or technology.

Communications Interoperability and Interconnections Programs (CIIP)

Programs to meet both Participants' critical military operational requirements for communications interoperability and interconnections, as mutually determined through requirements harmonisation discussions between the Participants. Programs will be identified under each CIIP, which will be set out in Communications Arrangements.

Communications Arrangement (CA)

A separate, mutually determined implementing arrangement, concluded after this MOU has come into effect, which details the provisions of collaboration between the Participants for particular Programs.

Contractor

Any individual or entity acting on behalf of a Participant in connection with this MOU or any of its CA's pursuant to a contract between that individual or entity and a Participant. Contractors and Contractor Support Personnel can be involved in all aspects of this MOU, but can not make binding decisions on behalf of the respective DoDs under this MOU or its CAs.

Controlled Unclassified Information

Unclassified information to which access or distribution limitations have been applied in accordance with applicable national laws or regulations. Whether the information is provided or generated under this MOU and its CAs, the information will be designated so as to identify its "in confidence" nature. It could include information, which has been declassified, but remains controlled. U.S. export-controlled information will be marked as "International Traffic in Arms Regulation (ITAR)-Controlled." Australia export controlled information will be marked as "Australia Export Controlled".

Defence Purposes

Any purpose that is in furtherance of the mission of national defense of either Participant.

Designated Security Authority (DSA)

The security office approved by the Participants' national authorities to be responsible for the security aspects of this MOU.

Financial Authority

The office(s) or organisations(s) responsible for determining and certifying the cost of services provided under this MOU

Financial Costs

Program costs met with monetary contributions from the Participants.

Host Participant

The Participant whose facilities host, on behalf of the Providing Participant activities pursuant to this MOU and any of its CA's, including the hosting of the other Participant's personnel, property, equipment, material, or information. Such personnel, property, equipment, material, or information is hosted generally for the benefit of the Providing Participant and not for use by the Hosting Participant, absent express written authorization by the Providing Participant.

Participant

A signatory to this MOU represented by its military and civilian personnel.

Program

An area of communications collaboration identified under this MOU to be carried out in a Communications Arrangement (CA) or an activity under this MOU. It can include a specific satellite communications system as a whole, which includes the space segment, ground segment, and control segment, delineated in a CA. In this MOU, the Programs are primarily wideband and narrowband. It can also refer to a supporting area of SATCOM, such as a training exchange program, as described in a CA.

Providing Participant

Participant that provides personnel, property, equipment, material, or information in connection with this MOU or any of its CAs to the other Participant, regardless of whether the other Participant is acting as a Host Participant or a Receiving Participant.

Receiving Participant

The Participant that receives personnel, property, equipment, material, or information in connection with this MOU or any of its CAs from the Providing Participant for its own use.

Satellite Communications (SATCOM)

Military satellite communications including DoD gateways (STEP/Teleports), network connectivity and satellite terminal-to-terminal communications that are owned/operated by the US Department of Defense or Australian Department of Defence.

Sub-Contractor

Any individual or entity acting on behalf of a Contractor pursuant to a contract.

Third Party

Any person or other entity whose governing authority is not a Participant to this MOU. It does not include a Contractor who is acting on behalf of either Participant in undertaking work for Defense Purposes.

SECTION II: OBJECTIVES**2.1 The objectives of this MOU are to:**

- 2.1.1 Provide Participants access to excess bandwidth and SATCOM services from each other's satellites to enhance operational command of the Participants joint and combined forces, on an equitable exchange basis subject to reimbursement.
- 2.1.2 Promote mutual identification of Communications Interoperability and Interconnections Programs (CIIP) to meet both Participants' critical military operational requirements. The specific level of cooperation and interconnection between US DoD's and AS DoD's systems will be mutually determined through requirements harmonisation discussions conducted by the Participants under this MOU, consistent with their national interests.
- 2.1.3 Define and set forth details to establish the general principles that will apply to the initiation, conduct and management of separate Communications Arrangements (CAs) between authorised representatives in accordance with national procedures of the Participants.
- 2.1.4 CAs will be entered into pursuant to this MOU and will incorporate by reference the provisions of this MOU. Each CA will include specific provisions consistent with this MOU, concerning (but not limited to) the CAs' Objectives, Allocation of Tasks, Management, Implementation Procedures, Financial Arrangements, Communications Arrangements, Special Disclosure and Use Provisions, Entry in Effect, Duration, and Termination. Should any provision of a CA conflict with the provisions of this MOU, the provisions of this MOU will apply.
- 2.1.5 The exchange of military satellite communications services or support between the Participants under the provisions set out in this MOU or its CAs will only be used for Defence Purposes. SATCOM and information exchanged consistent with the purposes of this MOU will not be made available to a Third Party without the express written consent of the Participant that originally provided that information to the other (hereafter "Providing Participant").
- 2.1.6 Activities under this MOU are provided on an as available basis. Either Participant may deny a request by the other Participant for SATCOM access under this MOU, based upon its own operational commitments and requirements. To the extent possible, an explanation, at the appropriate classification level, will be provided to the Participant whose request was denied.
- 2.1.7 This MOU in no way limits the right of Participants to enter into any other arrangements in the satellite communications interoperability and interconnection area with other nations.

UNCLASSIFIED

SECTION III: SCOPE OF MOU

- 3.0 The scope of this MOU includes the exchange of communications services and capacity between the Participants as well as the information exchange for the purposes of facilitating activities under this MOU, including the development and implementation of CAs.

UNCLASSIFIED

SECTION IV: MANAGEMENT (ORGANISATION AND RESPONSIBILITY)

- 4.1 The Participants will designate appropriate "Principals" to oversee the full, smooth implementation of this MOU. The USSTRATCOM Director Global Operations (or equivalent in the event of reorganisation) is designated the US Principal to this MOU. The Head of Information Capability Management Division, Chief Information Officer Group (or equivalent in the event of reorganisation) is designated the AS Principal to this MOU.
- 4.2 This MOU establishes an Executive Committee (EC) to act on behalf of the Participants under the oversight of the Principal to facilitate the implementation of this MOU and its CAs. The Director, Combat and Information Operations, US Strategic Command, (or equivalent in the event of re-organization) or his/her designated representative, will act as the US EC representative. The Director General Information Policy and Plans Chief Information Officer Group, (or equivalent in the event of re-organization) or his/her designated representative will act as the AS EC representative. The EC will normally meet on an annual basis with additional meetings held at the request of either representative. The representative of the Participant hosting the meeting will chair each meeting of the EC.
- 4.3 The EC will be responsible for:
 - 4.3.1 Identifying and reviewing proposals regarding CAs.
 - 4.3.2 Overseeing the day-to-day implementation of this MOU, including in the area of communications requirements activities under this MOU, the exchange of information conducted to support implementation of the MOU and the development of related CAs.
 - 4.3.3 Establishing appropriate CAs in accordance with national procedures of the Participants.
 - 4.3.4 Establishing broad executive-level oversight of CAs under this MOU.
 - 4.3.5 Maintaining oversight of the security aspects associated with implementation of this MOU and its CAs.
 - 4.3.6 Promptly appraising and consulting on matters that affect this MOU and resolving any issues brought forward by appropriate officials as provided in CAs.
 - 4.3.7 Recommending amendments to this MOU to the Principals for the Principals' mutual approval. After mutually concurring in proposed amendments, the Participants will process such proposals for adoption through their respective national procedures.
 - 4.3.8 Reviewing the annual financial balance of the communications services and systems exchanged under this MOU.

UNCLASSIFIED

- 4.3.9 All decisions of the EC will be made unanimously. Any decisions that cannot be resolved will be referred to the Principals for resolution.
- 4.4 CAs will be managed in accordance with their respective provisions. Each CA will normally contain a management structure that consists of a Coordinating Team (CT) and Program Officers (POs) as described below:
 - 4.4.1 The CT will consist of a senior representative designated by each Participant, both of whom will co-chair the CT. Each CT will appoint a Program Officer. Each Participant, as appropriate, will designate other team members.
 - 4.4.2 The CT will meet on a periodic basis, as required, to resolve specific issues raised by POs and receive progress reports from the POs.
 - 4.4.3 The senior representative of the CT of the Participant hosting the EC meeting will be responsible for briefing the EC on the CT. The brief to the EC will be mutually determined by the whole CT prior to presentation to the EC.
 - 4.4.4 The POs identified in each CA will be responsible for day-to-day implementation of that CA. The POs will be responsible for:
 - 4.4.4.1 Developing a management plan in accordance with the provisions of the CA for approval by the CT.
 - 4.4.4.2 Managing the cost, schedule, technical and financial aspects associated with implementation of the CA.
 - 4.4.4.3 Referring issues to the CT that cannot be resolved by the POs.
 - 4.4.4.4 Providing progress reports to the CT, as necessary.
 - 4.4.5 All decisions of the CT will be made unanimously. Any issues that cannot be resolved will be referred to the EC.

SECTION V: CO-LOCATED EQUIPMENT

- 5.1 With mutual consent of the Participants, either Participant may co-locate communications and/or cryptographic equipment, and any other necessary equipment, including spares and documentation, in the other Participant's nominated communications facilities to implement effectively the interoperability and intercommunication arrangements, and other activities under this MOU. Such co-located equipment will remain the property of the providing Participant. A list of all such equipment co-located in the other Participant's facilities will be developed and maintained by the CT, approved by the EC, and incorporated into the appropriate CA in accordance with Section IV (Management) of this MOU prior to co-location of such equipment.
- 5.2 The Providing Participant will furnish the co-located equipment in a condition appropriate for the intended purpose stated in the CA. However, the providing Participant makes no warranty or guarantee of fitness of the co-located equipment for a particular purpose or use, and makes no commitment to alter, improve, or adapt the co-located equipment or any part thereof.
- 5.3 Co-located equipment will be removed at the termination of this MOU, at the conclusion of the equipment's useful life, or six months from the date of a written request from the Host Participant to remove such equipment.
- 5.4 The Providing Participant will pay all costs associated with transporting, maintaining, servicing, and repairing co-located equipment, unless otherwise mutually determined by the Participants.
- 5.5 The Participants may enter into appropriate arrangements allowing the Host Participant access to and use of co-located equipment for the purposes of facilitating activities under this MOU, consistent with this MOU and relevant CAs.

SECTION VI: DISCLOSURE AND USE OF INFORMATION

- 6.1 The Participants recognize that successful implementation of this MOU depends on the full and prompt exchange of information between the Participants, as necessary for carrying out this MOU and associated CAs. The Participants intend to exchange sufficient information to fully implement this MOU and its associated CAs. The nature and amount of information to be exchanged under the CAs will be consistent with this MOU and associated CAs, subject to the national requirements of the respective Participants.
- 6.2 The Participants invoke the Chapeau Agreement, and in particular paragraphs 2 and 3 thereof, in connection with the exchange of information under this MOU and any of its CAs.
- 6.3 Each Participant further recognizes that all classified information made available by a Providing Participant to the Receiving Participant will be considered to be classified information furnished under, and shall be subject to all the provisions and safeguards provided for by the Agreement between the Government of Australia and the Government of the United States of America concerning Security Measures for the Protection of Classified Information (GSOIA), that entered into force on 7 November 2002.
- 6.4 The Receiving Participant may, upon request, make available to the Providing Participant, a location for onsite storage of classified and controlled unclassified, sensitive information, under the same provisions as provided for co-located equipment in Section V above.
- 6.5 Receiving or Host Participants will not release or permit access to equipment, property, or information of the Providing Participant to a Third Party, except a Contractor or Sub-Contractor of the Receiving or Host Participant, without the express written authorization of the Providing Participant. Transfer of such information to Contractors will be consistent with each Participant's applicable export control laws.

SECTION VII: SECURITY

- 7.1 All Classified Information or material provided or generated pursuant to this MOU and its CAs will be stored, handled, transmitted, and safeguarded in accordance with the Agreement between the Government of Australia and the Government of the United States of America concerning Security Measures for the Protection of Classified Information (GSOLA) which entered into force on 7 November 2002.
- 7.2 Classified Information and material will be transferred only through official government-to-government channels or through channels approved by the Designated Security Authorities (DSAs) of the Participants. To assist in providing the desired protection, each Participant will indicate, on or with the furnished information, the country of origin, the security classification, the conditions of release, and the fact that the information is related to this MOU, and the applicable CA, and that it is furnished in confidence.
- 7.3 Each Participant will take all appropriate lawful steps available to ensure that Classified Information provided, generated or exchanged in confidence under this MOU or any of its CAs is protected from disclosure under any legislative provision, unless the other Participant consents to such disclosure. Accordingly, each Participant will ensure that:
- 7.3.1 The recipient will not release the Classified Information to any government, national organization, or other entity of a Third Party without the prior written consent of the originating Participant.
 - 7.3.2 The recipient will not use the Classified Information for other than the purpose provided in this MOU.
 - 7.3.3 The recipient will comply with any distribution and access restrictions on information that is provided under this MOU.
- 7.4 Classified Information provided by either Participant to the other, and Classified Information produced by either Participant pursuant to this MOU, will be safeguarded in a manner that ensures its proper protection from unauthorized disclosure. To ensure this end, Classified Information will either retain its original classification, or be assigned a classification that will ensure a degree of protection against disclosure equivalent to that required by the other Participant.
- 7.5 The Participants will investigate all cases when it is known or where there are grounds for suspecting the Classified Information or material provided or generated pursuant to this MOU has been lost or disclosed to unauthorized persons. Each Participant will promptly and fully inform the other Participant of the details of any such occurrences, the final results of the investigation, and other corrective action taken to preclude recurrences.
- 7.6 When a CA contains provisions for the exchange of Classified Information, the CT or POs, as appropriate, will prepare a Program Security Instruction (PSI) and a Classification Guide (CG) for the CA. The PSI and the CG will describe the methods by which information generated by or exchanged in connection with this MOU or any of its CAs will be classified, marked, used, transmitted, and safeguarded. The CT or POs will develop the PSI and CG, as appropriate, within three months after CA enters into

UNCLASSIFIED

effect. They will be reviewed and forwarded to the Participants' DSAs for approval and will be applicable to all government and Contractor personnel participating in the Program. The CG will be subject to regular review and revision with the aim of downgrading the classification whenever this is appropriate. The PSI and the CG will be approved by the appropriate DSA prior to the transfer of any Classified Information or Controlled Unclassified Information.

- 7.7 Contractors, prospective Contractors, Sub-Contractors or prospective Sub-Contractors which are determined by the DSAs to be under financial, administrative, policy or management control of nationals or entities of a Third Party, may participate in a Contract or Sub-Contract requiring access to Classified Information provided or generated pursuant to this MOU or any of its CAs only when enforceable measures are in effect to ensure that nationals or other entities of a Third Party will not have access to Classified Information. If enforceable measures are not in effect to preclude access by nationals or other entities of a Third Party, the other Participant will be consulted for written approval prior to permitting such access.
- 7.8 For any facility wherein Classified Information or material is to be used, the responsible Participant or Contractor will approve the appointment of a person or persons to exercise *effectively the responsibilities for safeguarding at such a facility the information or material generated or exchanged in connection with this MOU or any of its CAs*. These officials will be responsible for limiting access to Classified Information or material involved in this MOU to those persons who have been promptly approved for access and have a need-to-know.
- 7.9 Each Participant will ensure that access to the Classified Information is limited to those persons who possess requisite security clearances and have a specific need for access to the information in order to implement this MOU.
- 7.10 Information or material provided or generated pursuant to this MOU or any of its CAs may be classified as high as Secret. The existence of this MOU is Unclassified, and the contents are Unclassified.

SECTION VIII: CONTROLLED UNCLASSIFIED INFORMATION

- 8.1 Except as otherwise provided in this MOU or as authorised in writing by the Providing Participant, Controlled Unclassified Information provided or generated pursuant to this MOU will be controlled as follows:
- 8.1.1 Each Participant will disclose or cause to be disclosed to the other Participant such information as may be necessary for the implementation of this MOU or any of its CAs.
 - 8.1.2 Any information provided under this MOU will be used solely for the purpose of this MOU or any of its CAs, unless otherwise approved in writing by the Providing Participant.
 - 8.1.3 Access to such information will be limited to personnel whose access is necessary for the proper implementation of this MOU or any of its CAs.
- 8.2 Prior to authorising the release of Controlled Unclassified Information to Contractors, the Receiving Participant will ensure the Contractors are legally bound to control such information.
- 8.3 Each Participant will take all appropriate lawful steps, which may include national classification, available to it to keep such information free from further disclosure (including requests under any legislative provisions), unless the Providing Participant consents to such disclosure. In the event of unauthorized disclosure, or if it becomes probable that the information may have to be further disclosed under any legislative provision, immediate notification will be given to the Providing Participant.